

I.M.C.R. 10. Withheld Judgments in the Magistrates Division - Conditions.

Idaho Misdemeanor Criminal Rule 10. Withheld Judgments in the Magistrates Division - Conditions.

Rules Text

(a) Conditions considered in granting withheld judgments. Before granting any withheld judgment pursuant to section 19-2601, Idaho Code, in the magistrates division, the court must consider:

- (1) All the facts and circumstances surrounding the offense with which the defendant is charged; and,
- (2) Whether the defendant is a first offender; and,
- (3) The previous actions and character of the defendant; and,
- (4) Whether the defendant might reasonably be expected to be rehabilitated; and,
- (5) Whether it reasonably appears that the defendant will abide by the terms of the probation; and,
- (6) The interests of society in being protected from possible future criminal conduct of the defendant; and,
- (7) The impact a record of a criminal conviction would have upon the defendant's future development and/or employment status.

(b) Second and subsequent withheld judgments. No second or any subsequent withheld judgment may be granted to the same defendant in the magistrates division unless the court in its discretion finds there to exist extraordinary circumstances, and the court in determining whether extraordinary circumstances exist, shall consider, in addition to the foregoing, the following factors:

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(1) Whether or not the defendant is before the court charged with the same or a related offense for which the defendant has received a prior withheld judgment; and,

(2) Whether or not the defendant has received a prior withheld judgment in any court proceeding within five (5) years of the date on which the defendant appears before the court for sentencing; and,

(3) Whether or not the defendant has ever been convicted of a felony offense.

(c) Extraordinary circumstances for withheld judgments. In making a determination that extraordinary circumstances exist, so as to allow the entry of a second or any subsequent withheld judgment for the same defendant in the magistrates division, the judge making this determination and awarding a second or subsequent withheld judgment shall make specific findings as to what factors have been considered in reaching this decision.

(Adopted December 27, 1979, effective July 1, 1980; amended April 2, 1981, effective July 1, 1981; amended April 18, 1983, effective July 1, 1983; amended June 3, 1988, effective July 1, 1988; amended March 23, 1990, effective July 1, 1990; amended April 19, 1995, effective July 1, 1995; amended December 3, 2013, effective immediately.)

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